

ESTTA Tracking number: **ESTTA578036**

Filing date: **12/20/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	MasterCard International Incorporated
Granted to Date of previous extension	01/01/2014
Address	2000 Purchase Street Purchase, NY 10577-2405 UNITED STATES
Attorney information	Paul J. Reilly Baker Botts L.L.P. 30 Rockefeller Plaza New York, NY 10112-4498 UNITED STATES paul.reilly@bakerbotts.com, suzanne.hengl@bakerbotts.com, nytmdpt@bakerbotts.com Phone:(212) 408-2500

Applicant Information

Application No	85899356	Publication date	09/03/2013
Opposition Filing Date	12/20/2013	Opposition Period Ends	01/01/2014
Applicant	Mobile Labs, LLC Suite 200 Atlanta, GA 30346 GABON		

Goods/Services Affected by Opposition


Class 009. First Use: 0 First Use In Commerce: 0


All goods and services in the class are opposed, namely: Computer hardware and downloadable computer software for management of mobile devices and mobile device applications; computer hardware and downloadable computer software for management of technician access to and engagement with mobile devices and mobile device applications for testing of the devices and applications; a multi-tenant appliance comprising computer hardware and downloadable computer software for managing mobile devices, mobile device applications, and technician access to and engagement with mobile devices and mobile device applications; downloadable computer software for managing groups of mobile devices, mobile device applications, and mobile device users; downloadable computer software for grouping mobile device users and devices into communities to segregate the mobile device applications and data of one community or group from the others and to control access to mobile device applications and data; downloadable computer software for testing mobile device applications; downloadable computer software for analyzing, developing, reviewing, monitoring, and testing software applications for use on mobile electronic devices; downloadable computer software for analyzing and testing functionality and compatibility of application software for use on a plurality of mobile devices

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition


U.S. Registration No.	1186117	Application Date	04/25/1980
Registration Date	01/12/1982	Foreign Priority Date	NONE
Word Mark	MASTERCARD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1980/02/11 First Use In Commerce: 1980/02/11 Financial Services-Namely, Providing Bank Card Services		

U.S. Registration No.	1257853	Application Date	04/02/1980
Registration Date	11/15/1983	Foreign Priority Date	NONE
Word Mark	MASTERCARD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1980/02/11 First Use In Commerce: 1980/02/11 Financial Services-Namely, Providing Bank Card Services		

U.S. Registration No.	1292519	Application Date	09/29/1982
Registration Date	08/28/1984	Foreign Priority Date	NONE


Word Mark	MASTERCARD
Design Mark	MasterCard
Description of Mark	NONE
Goods/Services	Class 036. First use: First Use: 1980/12/09 First Use In Commerce: 1980/12/09 Financial Services-Namely, Assisting Its Members in the Sale of Travelers' Cheques, Integrated Funds Management Programs, and Money Order Services

U.S. Registration No.	1604606	Application Date	10/12/1989
Registration Date	07/03/1990	Foreign Priority Date	NONE
Word Mark	MASTERCARD		
Design Mark	MasterCard		
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1980/12/00 First Use In Commerce: 1980/12/00 PRINTED MATTER AND PUBLICATIONS, NAMELY BANK CARDS, PAMPHLETS, BROCHURES, NEWSLETTERS AND MAGAZINES OF A FINANCIAL NATURE		

U.S. Registration No.	1738276	Application Date	02/19/1991
Registration Date	12/08/1992	Foreign Priority Date	NONE
Word Mark	MASTERCARD		
Design Mark			
Description of Mark	The mark consists of the words "MASTERCARD" with a globe design.		
Goods/Services	Class 016. First use: First Use: 1990/02/00 First Use In Commerce: 1990/02/00		


	printed matter and publications; namely, credit cards and debit cards, pamphlets, brochures, newsletters and magazines of a financial nature Class 036. First use: First Use: 1990/02/00 First Use In Commerce: 1990/02/00 financial services; namely, providing credit card, debit card, cash disbursement, and transaction authorization and settlement services
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U.S. Registration No.	2212783	Application Date	10/09/1997
Registration Date	12/22/1998	Foreign Priority Date	NONE
Word Mark	MASTERCARD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1980/02/00 First Use In Commerce: 1980/02/00 Magnetic encoded cards; magnetic encoded card readers; telecommunications equipment, namely point of transaction terminals; and computer software for transmitting, displaying and storing transaction, identification and financial information for use in the financial services, banking and telecommunications industries		

U.S. Registration No.	4146650	Application Date	10/06/2011
Registration Date	05/22/2012	Foreign Priority Date	NONE
Word Mark	MASTERCARD		
Design Mark			
Description of Mark	The mark consists of the representation of two people who are dark green in color with a white arrow outlined in dark green pointing from the representation of a person on the left to the representation of a person on the right. Centered below this image is the "MasterCard" brand mark which is the word "MasterCard" in white letters and highlighted in black superimposed across two interlocking circles - the circle on the left is red and the circle on the right is yellow with horizontal lines in the portion of the circles that interlock all of the above positioned against a background that is light green in color. The four corners of the background are in dark green.		
Goods/Services	Class 036. First use: First Use: 2011/02/03 First Use In Commerce: 2011/02/03 Financial services, namely, payment services in the nature of money transfers provided by means of a wireless connection to a global computer network; electronic payment services for personal banking in the nature of electronic funds transfer and clearing and reconciliation of financial transactions via a wireless connection to a global computer network; person-to-person and person-to-business money transfer and payment services transacted by means of a		

	wireless connection to a global computer network; electronic transfer of money from customer to customer; financial services in the nature of money transfer provided by means of a wireless connection to a global computer network or the Internet
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U.S. Registration No.	4384346	Application Date	11/23/2010
Registration Date	08/13/2013	Foreign Priority Date	NONE
Word Mark	MASTERCARD CONNECT		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 036. First use: First Use: 2012/10/17 First Use In Commerce: 2012/10/17 Financial services, namely, providing a wide range of information and analysis to financial institutions by electronic means in connection with credit, debit, stored value and other payment cards, specifically, cardholder spending, fraud, risk management, terminated merchants, reporting of chargebacks, retrievals and exceptions; providing financial services information via a global computer network</p> <p>Class 038. First use: First Use: 2012/10/17 First Use In Commerce: 2012/10/17 Electronic transmission of data, documents and information via a secure communications network in the field of financial services</p> <p>Class 039. First use: First Use: 2012/10/17 First Use In Commerce: 2012/10/17 Electronic storage and retrieval of information in the field of financial services</p>		

U.S. Registration No.	4099125	Application Date	07/22/2011
Registration Date	02/14/2012	Foreign Priority Date	NONE
Word Mark	MASTERKEY		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 036. First use: First Use: 2011/06/24 First Use In Commerce: 2011/06/24 Credit and debit card payment authorization and transaction processing services

U.S. Registration No.	1572346	Application Date	12/15/1986
Registration Date	12/19/1989	Foreign Priority Date	NONE

Word Mark	MASTERASSIST
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Design Mark	<p style="text-align: center;">MASTERASSIST</p>
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Description of Mark	NONE
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Goods/Services	Class 036. First use: First Use: 1986/06/00 First Use In Commerce: 1986/06/00 PROVIDING MEDICAL INSURANCE COVERAGE FOR TRAVELERS Class 038. First use: First Use: 1986/06/00 First Use In Commerce: 1986/06/00 EMERGENCY MESSAGE TRANSMITTAL SERVICES FOR TRAVELERS Class 039. First use: First Use: 1986/06/00 First Use In Commerce: 1986/06/00 PROVIDING MEDICAL TRANSPORTATION SERVICES FOR TRAVELERS Class 042. First use: First Use: 1986/06/00 First Use In Commerce: 1986/06/00 PROVIDING INFORMATION ON HOSPITALS AND MEDICAL FACILITIES FOR TRAVELERS; [CONVALESCENT HOTEL SERVICES FOR TRAVELERS,] ARRANGING FOR THE REPLACEMENT OF LOST ORSTOLEN TRAVEL TICKETS
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U.S. Registration No.	1580432	Application Date	02/13/1989
Registration Date	01/30/1990	Foreign Priority Date	NONE

Word Mark	MASTERLEGAL
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Design Mark	<p style="text-align: center;">MasterLegal</p>
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Description of Mark	NONE
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Goods/Services	Class 035. First use: First Use: 1988/04/07 First Use In Commerce: 1988/04/07 LEGAL REFERRAL SERVICES FOR CARDHOLDERS Class 042. First use: First Use: 1988/04/07 First Use In Commerce: 1988/04/07
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LEGAL ASSISTANCE SERVICES FOR CARDHOLDERS			
U.S. Registration No.	1594527	Application Date	02/08/1989
Registration Date	05/01/1990	Foreign Priority Date	NONE
Word Mark	MASTERRENTAL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1988/04/07 First Use In Commerce: 1988/04/07 ADMINISTERING CAR RENTAL INSURANCE FOR CARDHOLDERS Class 037. First use: First Use: 1988/04/07 First Use In Commerce: 1988/04/07 AUTOMOTIVE ROADSIDE ASSISTANCE SERVICESFOR CARDHOLDERS		
U.S. Registration No.	1597804	Application Date	02/13/1989
Registration Date	05/22/1990	Foreign Priority Date	NONE
Word Mark	MASTERTRIP		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1988/04/07 First Use In Commerce: 1988/04/07 CASH REPLACEMENT SERVICES RENDERED BY CREDIT CARD Class 038. First use: First Use: 1988/04/07 First Use In Commerce: 1988/04/07 EMERGENCY MESSAGE TRANSMITTAL SERVICES FOR TRAVELERS Class 039. First use: First Use: 1988/04/07 First Use In Commerce: 1988/04/07 TRAVEL INFORMATION SERVICES RENDERED BYCREDIT CARD Class 042. First use: First Use: 1988/04/07 First Use In Commerce: 1988/04/07 ARRANGING FOR THE REPLACEMENT OF LOST OR STOLEN TRAVEL TICKETS AND TRAVEL DOCUMENTS RENDERED BY CREDIT CARD		
U.S. Registration No.	1604948	Application Date	11/08/1989
Registration Date	07/03/1990	Foreign Priority Date	NONE
Word Mark	MASTERCOVERAGE		

Design Mark	MasterCoverage
Description of Mark	NONE
Goods/Services	Class 036. First use: First Use: 1989/05/22 First Use In Commerce: 1989/05/22 PROVIDING LIABILITY PROTECTION FOR CREDIT CARD ISSUERS AND THEIR CORPORATE CLIENTS

U.S. Registration No.	1649713	Application Date	07/18/1990
Registration Date	07/02/1991	Foreign Priority Date	NONE
Word Mark	MASTERCOM		
Design Mark	MasterCom		
Description of Mark	NONE		
Goods/Services	Class 038. First use: First Use: 1988/05/00 First Use In Commerce: 1988/05/00 communication services, namely transmission of data through the use of electronic image processing		

U.S. Registration No.	1682471	Application Date	11/17/1989
Registration Date	04/07/1992	Foreign Priority Date	NONE
Word Mark	MASTER ROADASSIST		
Design Mark	MASTER ROADASSIST		
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1990/03/09 First Use In Commerce: 1990/03/09 CREDIT CARD SERVICES FOR USE IN PURCHASING EMERGENCY AUTOMOTIVE ASSISTANCE		

U.S. Registration No.	2151140	Application Date	07/10/1995
Registration Date	04/14/1998	Foreign Priority Date	NONE

Word Mark	MASTERCARD MATCH
Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 1995/12/00 First Use In Commerce: 1995/12/00 financial software providing means for banks to identify problem merchants in payment transactions Class 036. First use: First Use: 1995/12/00 First Use In Commerce: 1995/12/00 financial services, for identifying problem merchants in payment transactions for others

U.S. Registration No.	2182243	Application Date	06/19/1997
Registration Date	08/18/1998	Foreign Priority Date	NONE
Word Mark	MASTERPURCHASE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1988/11/07 First Use In Commerce: 1988/11/07 arranging for extended warranty coverage for items purchased with a credit card		

U.S. Registration No.	2213329	Application Date	11/15/1996
Registration Date	12/22/1998	Foreign Priority Date	NONE
Word Mark	WORLD MASTERCARD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1997/07/00 First Use In Commerce: 1997/07/00 financial services, namely, providing credit card, debit card, charge card [and stored-value prepaid card, travelers cheque,] cash disbursement, and transaction authorization and settlement services		

U.S. Registration No.	2487725	Application Date	06/24/1994
Registration Date	09/11/2001	Foreign Priority Date	NONE
Word Mark	MASTERMONEY		
Design Mark	<p style="text-align: center;">MASTERMONEY</p>		
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1994/12/00 First Use In Commerce: 1994/12/00 financial services, namely providing debit card services		

U.S. Registration No.	2870383	Application Date	05/23/2001
Registration Date	08/03/2004	Foreign Priority Date	NONE
Word Mark	MASTERCARD REWARDS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1997/11/00 First Use In Commerce: 1997/11/00 PROMOTING THE SALE OF GOODS AND SERVICES OF OTHERS BY MEANS OF [COUPONS,] DISCOUNTS, AND INCENTIVES GENERATED THROUGH A PROGRAM AWARDED USERS OF CREDIT AND DEBIT CARDS		

U.S. Registration No.	2302729	Application Date	01/13/1998
Registration Date	12/21/1999	Foreign Priority Date	NONE
Word Mark	MASTERCARD CORPORATE MULTI CARD		
Design Mark	MASTERCARD CORPORATE MULTI CARD		
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1998/02/00 First Use In Commerce: 1998/02/00 Financial services, namely, providing credit card, [debit card,] * AND * charge card [and stored value electronic purse, prepaid telephone calling card services,] cash disbursement services, and transaction authorization and settlement services		

U.S. Registration No.	2360694	Application Date	04/28/1998
Registration Date	06/20/2000	Foreign Priority Date	NONE
Word Mark	MASTERCARD CORPORATE PURCHASING CARD		
Design Mark	MASTERCARD CORPORATE PURCHASING CARD		
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1997/06/00 First Use In Commerce: 1997/06/00 Financial services, namely, providing credit card, debit card, charge card [and stored value smart card services, prepaid telephone calling card services, cash disbursement services,] and transaction authorization and settlement services		

U.S. Registration No.	2641457	Application Date	01/13/1999
Registration Date	10/29/2002	Foreign Priority Date	NONE
Word Mark	MASTERCARD, THE BEST WAY TO PAY ON THE INTERNET		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 036. First use: First Use: 1998/08/31 First Use In Commerce: 1998/08/31 [Financial services, namely, providing credit card, debit card], charge card and stored value smart card services, prepaid telephone calling card services, cash disbursement services, electronic funds and currency transfer services, automated teller machine services, [and transaction authorization and settlement services]

Attachments	73259545#TMSN.gif(bytes) 73256484#TMSN.gif(bytes) 73392886#TMSN.gif(bytes) 73830812#TMSN.gif(bytes) 74140100#TMSN.gif(bytes) 85440677#TMSN.jpeg(bytes) 85183351#TMSN.jpeg(bytes) 85378798#TMSN.jpeg(bytes) 73635288#TMSN.gif(bytes) 73780848#TMSN.gif(bytes) 73779834#TMSN.gif(bytes) 73780847#TMSN.gif(bytes) 73837395#TMSN.gif(bytes) 74079515#TMSN.gif(bytes) 74003314#TMSN.gif(bytes) 74541357#TMSN.gif(bytes) 75417226#TMSN.gif(bytes) 75475924#TMSN.gif(bytes) Notice of Opposition.PDF(256550 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Paul J. Reilly/
Name	Paul J. Reilly
Date	12/20/2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

IN THE MATTER OF APPLICATION

Applicant: Mobile Labs, LLC
Mark: MASTERCONNECT
Serial No.: 85/899,356
Filed: April 9, 2013
Published in
the Official Gazette: September 3, 2013

	X	
MASTERCARD INTERNATIONAL	:	
INCORPORATED,	:	
	:	
Opposer,	:	Opposition No. ____, ____,
	:	
v.	:	
	:	
MOBILE LABS, LLC,	:	
	:	
Applicant.	:	
	X	

NOTICE OF OPPOSITION

Opposer, MasterCard International Incorporated, a Delaware corporation located and doing business at 2000 Purchase Street, Purchase, New York 10577 (hereinafter referred to as “MasterCard” or “Opposer”) believes that it will be damaged by the registration of Application Serial No. 85/899,356, filed on April 9, 2013 for the designation MASTERCONNECT in connection with computer hardware and software for mobile devices and mobile device applications in International Class 9.

MasterCard, having been previously granted an extension of time to oppose, hereby opposes the foregoing application. The specific grounds for this opposition are as follows:

1. MasterCard is a leading global payments solutions company that provides a variety of products and services in support of the credit, debit, prepaid and related payment programs of over 22,000 financial institutions and other entities that are its customers.

MasterCard's purpose is, *inter alia*, to facilitate various financial services transactions, including the interchange of funds through payment cards, including credit cards and debit cards, as well as to provide related banking, credit and payment card services, electronic funds and currency transfer services, electronic payment services, and network services to facilitate financial payments, and other related products and services, including but not limited to, conducting secure financial transactions and transferring information via mobile devices.

2. MasterCard has been in the payment card business since 1966 and has become well and favorably known to members of the public, as well as to members of the banking and financial services community, as a leader in the field of payment cards and related services and products. MasterCard initially owned and administered the celebrated MASTER CHARGE payment card program and it now owns and administers the MASTERCARD payment card program. There are over 1.9 billion MASTERCARD payment cards in circulation worldwide, which have been issued by approximately 22,000 licensed member banks and financial institutions. MasterCard's MASTERCARD payment cards are accepted at more than 35.9 million locations, including retail merchants, automated teller machines, and cash advance locations, and over \$3.6 trillion worth of purchases or cash advances were transacted in 2012 using a payment card bearing the MASTERCARD mark. Each retail establishment, ATM and cash advance location which accepts MasterCard's payment cards is required to post decals bearing the MASTERCARD mark at the point of sale. During 2012 alone, MasterCard

expended approximately \$775,000,000 in advertising and promoting its MASTERCARD payment card services and other related products and services.

3. In addition to its payment card offerings and for many years prior to the filing date of the application at issue or any alleged date of first use of Applicant's purported mark, MasterCard has provided various products and services, including electronic and wireless transmission of data and information, and the provision of financial and payment card services through mobile devices, in connection with its name and mark MASTERCARD.

4. The mark MASTERCARD has been used continuously by Opposer since 1980. Opposer has obtained numerous federal registrations for its MASTERCARD mark, including:

<u>Mark</u>	<u>Registration No.</u>
MASTERCARD	1,186,117
MASTERCARD	1,257,853
MASTERCARD	1,292,519
MASTERCARD	1,604,606
MASTERCARD	1,738,276
MASTERCARD	2,212,783
MASTERCARD	4,146,650

5. As a result of enormous advertising, promotion, card usage, point of sale signage and other extensive usage, the MASTERCARD mark has become one of the most renowned and famous brands in the United States and represents an asset of enormous goodwill of inestimable value to Opposer.

6. Opposer is also the owner of a large portfolio of other registered marks that employ the term "MASTER" and the mark MASTERCARD, including but not limited to the following:

<u>Mark</u>	<u>Registration No.</u>
MASTERCARD CONNECT	4,384,346
MASTERKEY	4,099,125
MASTERASSIST	1,572,346
MASTERLEGAL	1,580,432
MASTERRENTAL	1,594,527
MASTERTRIP	1,597,804
MASTERCOVERAGE	1,604,948
MASTERCOM	1,649,713
MASTER ROADASSIST	1,682,471
MASTERCARD MATCH	2,151,140
MASTERPURCHASE	2,182,243
WORLD MASTERCARD	2,213,329
MASTERMONEY	2,487,725
MASTERCARD REWARDS	2,870,383
MASTERCARD CORPORATE MULTI CARD	2,302,729
MASTERCARD CORPORATE PURCHASING CARD	2,360,694
MASTERCARD, THE BEST WAY TO PAY ON THE INTERNET	2,641,457

7. These registrations are valid and subsisting, uncanceled and unrevoked, and in full force and effect and many are incontestable pursuant to 15 U.S.C. § 1065.

Hereinafter MasterCard's foregoing marks, including those registered and/or used in commerce, are referred to individually and/or collectively as the "MASTERCARD Marks".

8. Since long prior to Applicant's filing of the opposed application and any alleged date of first use of the purported mark at issue, MasterCard has used many of its MASTERCARD Marks in connection with a wide range of financial products and services and other related or complementary products and services, including, but not limited to, conducting secure financial transactions and transferring information via mobile devices.

9. As a result of the long, extensive and widespread use, advertising, promotion and registration of the MASTERCARD Marks, including marks utilizing the term "MASTER" on and in association with a wide range of financial products and services and other

related or complementary products and services, consumers have become accustomed to associating marks containing MASTERCARD and/or the component "MASTER" in the financial and banking services industries as well as on related products and services, including products and services concerning secure transfer of data and information using mobile devices and mobile device applications, with MasterCard.

10. On information and belief, on or about April 9, 2013, Applicant, Mobile Labs, LLC, a Georgia limited liability company having an address at 41 Perimeter Center East, Atlanta, Georgia 30346 (hereinafter "Applicant" or "Mobile Labs"), filed Application Serial No. 85/899,356 to register the mark MASTERCONNECT for "computer hardware and downloadable computer software for management of mobile devices and mobile device applications; computer hardware and downloadable computer software for management of technician access to and engagement with mobile devices and mobile device applications for testing of the devices and applications; a multi-tenant appliance comprising computer hardware and downloadable computer software for managing mobile devices, mobile device applications, and technician access to and engagement with mobile devices and mobile device applications; downloadable computer software for managing groups of mobile devices, mobile device applications, and mobile device users; downloadable computer software for grouping mobile device users and devices into communities to segregate the mobile device applications and data of one community or group from the others and to control access to mobile device applications and data; downloadable computer software for testing mobile device applications; downloadable computer software for analyzing, developing, reviewing, monitoring, and testing software applications for use on mobile electronic devices; downloadable computer software for analyzing and testing functionality and compatibility of application software for use on a plurality of

mobile devices” in International Class 9, based on an intent use the mark in commerce (hereinafter referred to as the “application-in-opposition”).

11. Registration of Applicant’s alleged mark which is the subject of the application-in-opposition is barred by the provisions of Section 2(d) of the Trademark Act of 1946, 15 U.S.C. § 1052(d), because the said mark consists of or comprises a mark which so resembles a mark previously registered in the United States Patent and Trademark Office and/or used in the United States by Opposer and not abandoned, as to be likely, when used in connection with the alleged products of Applicant, to cause confusion, mistake or deception.

12. Opposer has priority over Applicant because MasterCard’s use, application filing dates, and/or registration dates of many of its MASTERCARD Marks, including its MASTERCARD CONNECT mark, precede the filing date of the application-in-opposition for the alleged mark MASTERCONNECT or, on information and belief, any claimed use of the alleged mark MASTERCONNECT by Applicant.

13. Applicant’s alleged mark MASTERCONNECT and Opposer’s MASTERCARD Marks, including MASTERCARD CONNECT and its family of “MASTER” marks, are similar. On information and belief, the products intended to be offered by Applicant in connection with its mark MASTERCONNECT are similar, complementary, or of a related nature to the goods and services offered by MasterCard in connection with the MASTERCARD Marks, including, but not limited to, its famous MASTERCARD mark, its MASTERCARD CONNECT mark and/or many of its family of “MASTER” marks.

14. Applicant’s alleged mark which is the subject of the application-in-opposition so resembles Opposer’s previously used and registered MASTERCARD Marks, including, but not limited to, MASTERCARD CONNECT and/or many of its family of

“MASTER” marks, as to be likely, when used in connection with Applicant’s products, to cause confusion, to cause mistake or to deceive and/or constitutes a false representation that Applicant’s products are approved by MasterCard or that Applicant’s products are connected or affiliated with MasterCard, thereby deceiving the public, causing confusion or mistake, and causing damage to Opposer within the meaning of 15 U.S.C. §1063.

15. The likelihood of confusion, mistake or deception that would also arise from concurrent use and registration of the applied for mark with Opposer’s use and registration of its MASTERCARD Marks is that persons are likely to believe that Applicant and its products are in some way legitimately sponsored, endorsed or licensed by Opposer when, in fact, they are not. Accordingly, registration of Applicant’s mark which is the subject of the application-in-opposition is barred by the provisions of Section 2(d) of the Trademark Act of 1946, 15 U.S.C. § 1052(d).

16. Further, registration and use of Applicant’s alleged mark MASTERCONNECT which is the subject of the application-in-opposition is likely to cause dilution of the distinctiveness of MasterCard’s famous and highly distinctive mark MASTERCARD and/or many of its family of “MASTER” marks, which became highly distinctive and famous long prior to the filing date of Applicant’s application-in-opposition or any alleged first use of MASTERCONNECT, in violation of 15 U.S.C. § 1125(c). Accordingly, Applicant’s alleged mark MASTERCONNECT is not entitled to registration under 15 U.S.C. § 1052(f) and Section 13 of the Lanham Act, 15 U.S.C. § 1063.

17. Opposer will be damaged by the registration sought by Applicant because such registration would support and assist Applicant in the confusing, misleading, deceptive and/or dilutive use of Applicant’s alleged mark which is the subject of the application-in-

opposition, and would give color of exclusive statutory rights to Applicant in violation and derogation of the prior and superior rights of Opposer.


18. In view of the foregoing, issuance of a registration to Applicant for its claimed mark which is the subject of Application Serial No. 85/899,356 would be damaging to Opposer's common law marks and federal registrations within the meaning of Section 13 of the Lanham Act, 15 U.S.C. §1063.

WHEREFORE, Opposer prays that this opposition be sustained in its entirety, that registration be denied to Applicant on its Application Serial No. 85/899,356 and that the Board grant all further relief in favor of Opposer as is necessary and just in these circumstances.

Respectfully submitted,

BAKER BOTTS LLP

Dated: December 20, 2013

By: 
Paul J. Reilly
Suzanne M. Hengl
30 Rockefeller Plaza
New York, NY 10112-0228
(212) 408-2634
Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of December, 2013 a copy of the foregoing, NOTICE OF OPPOSITION, was served on Applicant via First Class Mail, in an envelope with sufficient postage addressed to:

Daniel E. Sineway
Morris, Manning & Martin, LLP
3343 Peachtree Rd Ne Ste 1600
Atlanta, GA 30326-1044

By: 
Suzanne M. Hengl